

**DETERMINATION OF NEED FOR EXCEPTIONAL TERM CONTRACT  
Lot 354-7 & Lot 354-R6-R/W, Municipality of Inarajan, Guam**

This Determination of Need for Exceptional Term Contract is issued pursuant to Public Law 32-40 as amended by Public Law 34-99 wherein the CHamoru Land Trust Commission hereby makes this written “Determination of Need” qualifying by a quantifiable measure an Exceptional Term Contract, and specifying the full term, inclusive of extensions, options and renewals, for such contract. Furthermore, provide a copy of such Determination of Need to the Speaker of *ILiheslaturan Guahan*.

On May 20, 2021 the CHamoru Land Trust Commission’s board voted and approved the designation and continued use for commercial leasing of the subject property. Subsequent the completion of all prerequisites required by Public Law 33-95 and §75122, Chapter 75, Title 21, Guam Code Annotated a CLTC Resolution will be transmitted to the *ILiheslaturan Guahan*.

The CHamoru Land Trust Commission (hereinafter referred to as “CLTC”), intends to issue a Request for Proposals (“RFP”) for the commercial lease of Lot 354-7 & Lot 354-R6-R/W, Municipality of Inarajan, Guam, containing an area of 791+/- square meters, 208+/- square meters and zoned Agriculture. The CLTC intends to negotiate a lease agreement for the Property that allows a prospective developer to implement its proposed and approved development plans. The Property was previously commercially licensed and was being utilized as an antenna site for one of the communication companies. The Property maintains its potential for commercial use. CLTC intends to negotiate a lease agreement for the Property that allows a prospective lessee to utilize the Property for land uses consistent with the Agriculture Zone (A) designation. If required, the offeror will be allowed to pledge the leasehold interest in the property to secure development financing.

To allow prospective developers to invest in the Property and recover investments, CLTC proposes to allow a lessee to lease the property for a term of up to fifty (50) years with one or more options to extend the term for an additional Forty-Nine (49) years. Such term will be subject to negotiations based primarily upon the amount of time required by the lessee to recover its investment, satisfy financing requirements and profits.

Smaller scale developments (in the tens to hundreds of thousands of dollars), have usually been pursued by smaller organizations. These organizations experience specific and unique set of challenges. Smaller and common business structures on Guam are corporations, partnerships and sole proprietorships. These types of business structures are reliant on local financing institutions to engage in almost any form of business. A commercial loan is dependent on various prerequisites such as, the loan amount, interest, and the borrower’s ability to repay. Although, there may be some organizations or businesses that have the financial ability to payback a loan from hundreds of thousands to the millions of dollars, five years or less. There are a large number of small local businesses that are incapable of doing so. For example, a \$200K business loan at 5% interest amortized and payable in 5 years would require monthly payments of almost \$4K a month for the loan itself. Without considering overhead costs, operational costs, or costs of goods sold and limiting a commercial lease to 5 years would cause an added layer of obstacles and additional hardship for most small local businesses to participate, employ local workers, or have hope at solvency and success.

Furthermore, a business’s success in negotiating a real property lease may be a condition

to securing financial assistance. Limiting the leasehold to 5 years will not result in favorable consideration from any financial institution if the leasehold is shorter than the amortization or payback period of a commercial loan. In order to provide an opportunity for all businesses to succeed an Exceptional Term Lease longer than 5 years needs to be allowed.

All terms of a commercial lease shall be negotiated in compliance with Public Law 33-95 and §75122, Chapter 75, Title 21, Guam Code Annotated.

